

ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ENACTING AN ORDINANCE ENTITLED "PALM BEACH COUNTY HANDGUN SALE ORDINANCE"; AN ORDINANCE RELATING TO THE REGULATION OF THE PURCHASE AND SALE OF HANDGUNS; PROVIDING FOR DEFINITIONS; PROVIDING FOR A CRIMINAL HISTORY CHECK PRIOR TO THE DELIVERY OF A HANDGUN; PROVIDING FOR A LICENSING REQUIREMENT FOR DEALERS AND PURCHASERS; PROVIDING FOR CONDITIONS OF REVOCATION OF A LICENSE; PROVIDING FOR ADMINISTRATION BY THE COUNTY ADMINISTRATOR; PROVIDING FOR HEARING PROCEDURES; PROVIDING EXCEPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that, for the protection of the Health, Safety and General Welfare of the citizens of Palm Beach County that it is desirable and in the best interests of said citizens that the sale of handguns be regulated,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. SHORT TITLE

This Ordinance shall be known and may be cited as the "Palm Beach County Handgun Sale Ordinance".

Section 2. DEFINITIONS

2.01 As used in this Ordinance unless the context otherwise indicates:

(a) "Dealer" means any person engaged in the business of selling firearms or ammunition at wholesale or retail, or any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or any person who is a pawnbroker as defined by the Federal Firearms Act or any person who is required to obtain a license as a dealer under the provisions of the Federal Firearms Act. Any person who sells three (3) or more firearms within one (1) year shall be considered a dealer for purposes of this Ordinance.

(b) "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or

- 1 firearm silencer; any destructive device; or any machine
2 gun; excluding however:
- 3 (1) Any device used exclusively for signaling or safety
4 and required or recommended by the United States
5 Coast Guard or the Interstate Commerce Commission.
- 6 (2) Any device used exclusively for the firing of stud
7 cartridges, explosive rivets or similar industrial
8 ammunition.
- 9 (3) Any "antique firearm" which means any firearm
10 manufactured in or before 1918 (including any
11 matchlock, flintlock, percussion cap, or similar
12 early type of ignition system) or replica thereof,
13 whether actually manufactured before or after the
14 year 1918, and also any firearm using fixed
15 ammunition manufactured in or before 1918, for which
16 ammunition is no longer manufactured in the United
17 States and is not readily available in the ordinary
18 channels of commercial trade.
- 19 (c) "Handgun" means any firearm which (1) is designed or
20 redesigned or made or remade and intended to be fired
21 while held in one hand; or (2) having a barrel of less
22 than 10 inches in length; or (3) a firearm of a size which
23 may be concealed upon a natural person.
- 24 (d) "Immediate Family" means a person's spouse, father,
25 mother, son, daughter, brother, sister, or any relative
26 who is domiciled in the person's household.
- 27 (e) "Person" means any individual, corporation, company,
28 association, firm, partnership, club, society, joint stock
29 company, or other organization or group.
- 30 (f) "County" means Palm Beach County
- 31 (g) "County Administrator" means the County Administrator of
32 Palm Beach County or his designee.

1 Section 3. CONDITIONS FOR THE PURCHASE OF A HANDGUN

2 3.01 A purchaser of a handgun and a dealer in handguns shall
3 be required to comply fully with all local, state and federal laws
4 concerning the purchase of a handgun.

5 3.02 No permit to purchase a handgun shall be issued to any
6 applicant unless the County Administrator is satisfied that the
7 applicant has affirmatively established, by all of the evidence presented
8 within the application and any materials submitted in support thereof,
9 that the applicant:

10 A. Is at least twenty-one (21) years old;

11 B. Has not pled guilty to, or been convicted of a felony,
12 unless his Civil Rights have been restored;

13 C. Is not the subject of a felony indictment or information
14 filed and pending in a court of competent jurisdiction;

15 D. Has not been adjudicated a mental incompetent, has not been
16 committed either voluntarily or involuntarily to a mental institution as
17 being dangerous to himself or others, unless he possesses a certificate
18 of a medical doctor licensed in this state that he no longer suffers from
19 said disability.

20 3.03 As a condition for the purchase of a handgun a person
21 desiring to purchase a handgun shall submit a written application, to the
22 County Administrator, on a form prescribed by the County Administrator,
23 containing sufficient information for the County Administrator to conduct
24 a criminal history check to determine whether a purchaser of a handgun is
25 eligible under state, federal and local law to purchase a handgun. Each
26 applicant shall pay a nonrefundable fee for the processing of said
27 application. Said fee shall be set by resolution of the Board of County
28 Commissioners and shall be applied toward the cost of administration of
29 this Ordinance. Said fee shall be exclusive of any fees or charges of
30 any State, Federal or local criminal investigative agency performing any
31 investigation pursuant to this Ordinance.

32 3.04 The County Administrator shall be required to respond, in
33 writing, to any application to purchase a handgun within fourteen (14)
34 days, exclusive of Saturdays, Sundays and holidays, of receipt of a fully

1 completed application by either granting a permit to purchase a handgun
2 or determining that such person is ineligible to purchase a handgun and
3 setting forth the reasons for such ineligibility.

4 3.05 In the event the County Administrator fails to respond to
5 a person, in writing, within the fourteen (14) day time frame provided
6 for herein, the person applying for a permit shall be deemed to have been
7 approved for the issuance of a permit and upon written request of any
8 person not receiving a timely response, the County Administrator shall
9 issue a license.

10 3.06 No person shall purchase, or attempt to purchase, a
11 handgun, until he has filed an application with, and received a permit to
12 purchase a handgun from the County Administrator.

13 3.07 Said Permit to Purchase shall be valid for thirty (30)
14 days from issuance by the County Administrator.

15 3.08 Any person desiring to purchase a handgun shall be
16 required to present the original, and one copy, of his permit to
17 purchase, to a licensed dealer prior to purchasing a handgun. All
18 dealers shall be required to retain said copy of the Permit to Purchase
19 for a period of one (1) year from the date of sale or delivery of a
20 handgun to any person.

21 3.09 No dealer shall sell or deliver a handgun to any person,
22 unless said person presents to the dealer the original and one copy of
23 his Permit to Purchase.

24 3.10 A permit to purchase may be revoked by the County
25 Administrator for any grounds for which the permit could have been denied
26 when applied for.

27 3.11 If a previously permitted purchaser reapplies for another
28 permit to purchase within one year from the issuance of the original
29 permit to purchase, the County Administrator shall be required to
30 respond, in writing, to said application within five (5) days, exclusive
31 of Saturdays, Sundays and holidays, of receipt of a fully completed
32 application by either granting a permit to purchase a handgun or
33 determining that such person is ineligible to purchase a handgun and
34 setting forth the reasons for such ineligibility.

1 Section 4. LICENSING OF DEALER

2 4.01 No person shall engage in business as a dealer as defined
3 herein until he has filed an application with, and received a license
4 from the County Administrator. The application shall be on such form and
5 contain such information as the County Administrator shall prescribe.
6 Said license shall be valid for a period of one (1) year from the date of
7 issuance. Each applicant shall pay a nonrefundable fee for obtaining a
8 license. Said fee shall be set by resolution of the Board of County
9 Commissioners, and shall be applied toward the cost of administration of
10 this ordinance. Said fee shall be exclusive of any fees or charges of
11 any State, Federal or local criminal investigative agency performing any
12 investigation pursuant to this ordinance.

13 4.02 The County Administrator shall be required to respond, in
14 writing, to any person requesting the issuance of a license within
15 fourteen (14) days, exclusive of Saturdays, Sundays, and holidays, of
16 receipt of a fully completed application and filing fee, by either
17 granting a license to engage in business as a dealer, or determining that
18 such person is ineligible for a license and state the reasons for such
19 ineligibility.

20 4.03 In the event the County Administrator fails to respond to
21 a dealer, in writing, within the fourteen (14) day time frame provided
22 for herein, the person applying for a license shall be deemed to have
23 been approved for the issuance of a license and upon written request of
24 any person not receiving a timely response, the County Administrator
25 shall issue a license.

26 4.04 Any application for a license shall be approved if the
27 applicant is in compliance with and licensed to be a dealer under
28 existing federal, state and local law.

29 Section 5. CONDITIONS; REVOCATION

30 5.01 A dealer's license issued in accordance with the
31 provisions of this Ordinance is subject to the following conditions, for
32 breach of any of which the license is subject to revocation:

- 33 (a) The business shall be carried on only in the premises
34 designated in the license and all firearms sold,

1 transferred or otherwise disposed of by a dealer shall be
2 delivered only at the premises designated in the license.

3 (b) The license or a copy thereof certified by the issuing
4 authority shall be displayed in a conspicuous place on the
5 premises in which the business is conducted where it can
6 be easily read.

7 (c) The holder of the license shall comply with all provisions
8 of this Ordinance, federal, state and local law.

9 5.02 The following shall also constitute grounds for
10 revocation of the license:

11 (a) Conviction of the licensee of any felony.

12 (b) Any grounds for which the license could have been refused
13 when applied for.

14 Section 6. HEARING PROCEDURE FOR DENIAL OF PERMIT TO PURCHASE,
15 DENIAL OF A DEALER'S LICENSE OR REVOCATION OF A
16 DEALER'S LICENSE OR PERMIT TO PURCHASE

17 6.01 Any person dissatisfied or aggrieved with notification
18 from the County Administrator that he is ineligible for a dealer's
19 license or that his dealer's license will be revoked, or that he is
20 ineligible to purchase a handgun or that his permit to purchase a handgun
21 has been revoked, may, within fourteen (14) days of such notification,
22 appeal said determination to the Board of County Commissioners of Palm
23 Beach County according to the hearing procedures contained in this
24 Ordinance. Said appeal shall be in writing, shall be delivered to the
25 Board of County Commissioners by certified mail, and shall state the
26 basis of the appeal.

27 6.02 Within sixty (60) days from the receipt of the notice of
28 appeal the County Administrator shall schedule a hearing before the Board
29 of County Commissioners, at which time the dealer shall be given the
30 opportunity to demonstrate why he should be granted a license or,
31 alternately, why his license should not be revoked; or why the
32 prospective purchaser should be granted a permit for the purchase of a
33 handgun.

1 6.03 Whenever the County Administrator determines that there
2 may be a violation of this Ordinance by a dealer, it shall give notice
3 thereof in the manner hereinafter provided.

4 (a) A notice of violation shall; (1) be in writing; (2)
5 specify the violation or violations; and (3) state that if
6 the violation is not corrected within said specified
7 period of time, the County Administrator shall request a
8 hearing for the purpose of revoking the dealer's license
9 before the Board of County Commissioners within thirty
10 (30) days from the expiration of the period of time stated
11 in the violation in accordance with the hearing procedures
12 contained in this section.

13 (b) A notice of violation shall be served by the County
14 Administrator by certified mail, return receipt requested,
15 to a dealer at his place of business.

16 6.04 The procedure at any hearing required by this Ordinance
17 shall be as follows:

18 (a) The County Administrator shall cause to be served upon the
19 person or dealer a notice of hearing, stating the time and
20 place of the hearing. The notice of hearing shall be sent
21 by certified mail, return receipt requested, to the
22 address set forth on the application.

23 (b) The person or dealer shall have the right to be
24 represented by counsel, to call and examine witnesses, to
25 introduce exhibits, to examine opposing witnesses on any
26 relevant matter, even though the matter was not covered
27 under direct examination, and to impeach any witness
28 regardless of which party first called him to testify.

29 (c) In any hearing before the Board of County Commissioners
30 irrelevant, immaterial or unduly repetitious evidence
31 shall be excluded. All other evidence of a type commonly
32 relied upon by reasonable prudent persons in the conduct
33 of their affairs shall be admissible whether or not such
34 evidence would be admissible in a trial in the courts of
35 Florida.

1 (d) Within forty-five (45) days of the hearing, the Board of
2 County Commissioners shall complete and submit to the
3 County Administrator and the person or dealer requesting
4 said hearing a final order consisting of his findings of
5 fact and conclusions of law as to the granting or denial
6 of a permit, license, or revocation of a license.

7 (e) Appeal from the decision of the Board of County
8 Commissioners shall be by certiorari to the Circuit Court
9 in accordance with the Florida Rules of Appellate
10 Procedure.

11 Section 7. EXCEPTIONS

12 7.01 The provisions of this Ordinance shall not apply to duly
13 employed federal, state, county or municipal law enforcement officers.

14 7.02 The provisions of this Ordinance shall not apply to
15 licensed collectors dealing solely in curios and relics as defined by the
16 Federal Firearms Act.

17 7.03 The provisions of this Ordinance shall not apply where an
18 operable handgun is traded for another operable handgun.

19 7.04 A criminal history check shall not be required for any
20 handgun transfers between members of an immediate family.

21 7.05 The provisions of this Ordinance shall not apply to
22 transactions between importers, manufacturers, collectors and dealers
23 licensed pursuant to the Federal Firearms Act.

24 Section 8. PENALTY

25 8.01 Violation of this section shall be prosecuted in the same
26 manner as misdemeanors of the second degree are prosecuted. Such
27 violations shall be prosecuted in the name of the state in a court having
28 jurisdiction of misdemeanors by the prosecuting attorney thereof, and
29 upon conviction, shall be punished by a fine not to exceed Five Hundred
30 Dollars (\$500.00) or by imprisonment in the county jail not to exceed
31 sixty (60) days, or by both such fine and imprisonment.

32 Section 9. NONASSIGNABILITY

33 9.01 Any permits and/or licenses issued pursuant to this
34 Ordinance may not be assigned or transferred.

1 Section 10. SEVERABILITY

2 10.01 If any section, subsection, sentence, clause or phrase
3 of this Ordinance is held to be invalid or unconstitutional by any court
4 of competent jurisdiction, then said holding shall in no way affect the
5 validity of the remaining portions of this Ordinance.

6 Section 11. INCLUSION IN CODE

7 11.01 It is the intention of the Board of County Commissioners
8 that the provisions of this Ordinance shall become and be made a part of
9 the Palm Beach County Code; and that the sections of this Ordinance may
10 be renumbered or relettered and the word "ordinance" may be changed to
11 "section," article," or such other appropriate word or phrase in order to
12 accomplish such intentions.

13 Section 12. EFFECTIVE DATE

14 12.01 This ordinance shall become effective upon receipt of
15 acknowledgment by the Secretary of State of the State of Florida.

16 Section 13. APPLICABILITY

17 This Ordinance shall be applicable in the entire unincorporated
18 area of Palm Beach County and the incorporated area of Palm Beach County
19 to the extent permissable under Article 8, Section 1(F) of the Florida
20 Constitution.

 APPROVED AND ADOPTED by the Board of County Commissioners, of
Palm Beach County, Florida on the 12th day of June, 1984.

21 EFFECTIVE DATE: Acknowledgment from the Department of State
22 received on the 25th day of June 1984 at 12:32 p.m. and
23 filed in the Office of the Clerk of the Board of County Commissioners of
24 Palm Beach County, Florida.

25 APPROVED AS TO FORM
26 AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

27 BY: Glen J. Torricca
28 Assistant County Attorney

BY: Ken Spillias
Chairman

29 Acknowledged by the Department of State of the State of Florida
30 on the 20th day of June 1984.